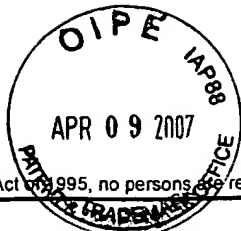


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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

50277-1734

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

On 4/4/07Signature Annette ValdiviaTyped or printed
name Annette ValdiviaApplication Number
09/866,143Filed
May 25, 2001First Named Inventor
Ilya KirnosArt Unit
2143Examiner
Shin, Kyung H.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 58,764

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34

Signature

Joseph M. Olsen
Typed or printed name408.414.1233
Telephone number04/04/07

Date

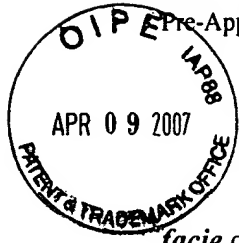
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Pre-Appeal Brief

**REMARKS**

As will be seen from the discussion below, the Examiner has failed to present a *prima facie* case of obviousness in rejecting Claim 1.

MPEP § 706.02(j) states that in order to establish a *prima facie* case of obviousness, one of the three basic criteria that must be met is that “the prior art reference (or references when combined) must teach or suggest all the claim limitations.” In rejecting Claim 1, the **Office Action fails to allege that any of the cited references, individually or in combination, teach or suggest at least one of the claim limitations of Claim 1.**

Specifically, Claim 1 recites:

A computer-implemented method for managing files, the method comprising:
recording information about one or more items in a file system to a comparison file,
wherein the information recorded to the comparison file includes location
information to identify where in the file system the one or more items are located;
generating a working version of a portion of the file system, the working version
including at least one or more working items that corresponds to the one or more
located in the file system;
persistently maintaining the working version; and
upon a synchronization event, comparing the location information for the one or more
items in the comparison file to the working version to determine if any of the
corresponding one or more working items has been moved to a new location in
the working version.

Such a method is not taught or suggested by the cited reference (U.S. Pat. No. 6,856,993 to Verma et al. (“Verma”), U.S. Patent No. 6,473,767 to Bailey (“Bailey”), U.S. Patent No. 6,636,878 to Rudoff (“Rudoff”), and U.S. Pat. No. 6,101,508 to Wolff (“Wolff”), either individually or in any alleged combination thereof.

1. Verma discusses techniques for creating a transactional file system, which allows application transactions to be committed to disk without compromising data integrity. (See Col. 2, lines 12-22). Verma defines a transaction coordinator that enlists and maintains a set of

resource managers to control how and when specific commands are executed and how and when the results of those commands are committed to disk. (See Col. 8, lines 16-30). The Examiner argues that Verma teaches that changes to a file system are stored and that storing the changes is the equivalent of a comparison file. This is not true. Verma uses a transactional context object to store file system **operations**, such as file open, create file, close file, etc., that are to be performed by a particular transaction. (See Col. 2, lines 12-33). Information about the file system itself is not recorded to the transactional context object. Accordingly, changes to the file system are made by performing a series of operations stored in the transaction context object, and then committing the changes to disk. Throughout this process, Verma **does not** record information about files to a comparison file, and Verma **does not** use the comparison file to determine what changes have occurred in a file system. The operations in the transactional context object define those changes. Thus, Verma does not teach or suggest “recording information about one or more items in a file system to a comparison file.”

Furthermore, Verma does not teach or suggest comparing information in a comparison file to a working version of a file system. As noted above, in Verma, file system changes are made through defined operations. Thus, in Verma, there is no need to “compar[e] the location information for the one or more items in the comparison file to the working version to determine if any of the corresponding one or more working items has been moved to a new location in the working version” as recited in Claim 1, since the changes have been made through set operations.

2. Bailey does not teach or suggest “recording location information to a comparison file” or “comparing the location information for the one or more items in the comparison file to the working version.” Bailey describes a system that creates two directories, a source and a target directory, that are compared after file system operations have been performed on one of the

two directories. (See Bailey, Col. 2, lines 41-56 and Col. 4, lines 6-18). To make the comparison, Bailey inserts “anti-files” into its directories to indicate when a file has been removed from one of the two directories. To synch the directories, the two directories are compared directly to each other. Bailey does not record information to a separate comparison file, and any comparison between the source and target directories in Bailey is performed directly between the two. Claim 1 avoids comparing two file systems directly by recording certain information to the comparison file. Accordingly, Bailey does not teach or suggest at least those two elements of Claim 1.

3. Rudoff and Wolff also lack any teaching or suggestion that would indicate recording information to a comparison file and comparing information from the comparison file to a working version of a file system. Importantly, the Office Action makes no allegation that Rudoff or Wolff does teach these elements. Therefore, any alleged combination of these references with Verma and/or Bailey would fail to teach or suggest at elements of Claim 1.

For at least these reasons, the Applicant respectfully submits that the Examiner has failed to establish a prima facie case of obviousness under 35 U.S.C. 103(a), and therefore, the rejection of Claim 1 should be withdrawn.

Independent Claims 12, 25, 31, 76, 87, 99, and 105 all recite at least “recording information” and a “comparing information” from a comparison file. So for at least the same reasons as set forth above, the Applicant respectfully submits those claims are patentable over the applied references. Dependent claims 2-11, 13-24, 26-30, 33, 77-86, 88, 90-98, 100-104, and 106-107 include the limitations of their independent claims 1, 12, 25, 31, 76, 87, 99, and 105 by virtue of their dependence. Therefore the dependent claims are patentable over the cited art for at least the reasons set forth herein.